



The following constitutes the order of the court.
Signed August 15, 2013

William J. Lafferty, III

William J. Lafferty, III
U.S. Bankruptcy Judge

Lincoln Law, LLP
Carl R. Gustafson, Bar No. 254881
Tessa Meyer Santiago, Utah Bar. No. 09324, *pro hac vice*
Attorney for Debtors
1525 Contra Costa Blvd.
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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA**

In Re:) BANKRUPTCY CASE NO.: 10-71788
)
Jesus Edgar Montano,	) Chapter 7
)
Debtor	) ADVERSARY CASE NO.: 11-04008 WJL
)
	) ORDER ON DEFENDANT'S MOTION FOR
	) ASSIGNMENT OF RIGHTS PURSUANT TO
HERITAGE PACIFIC FINANCIAL, LLC, a	) CCP§708.510(a) AND FRCP 69(a)--(Chapter 13
Texas Limited Liability Company	) Trustees)
Plaintiff,)
)
v.)
	) Hearing time: 10.30 a.m.
JESUS EDGAR MONTANO,	) Hearing date: August 14, 2013
	) Hearing Place: Room 220, 1300 Clay Street,
Defendant.	) Oakland, California, 94612
)

Defendant Jesus Montano's Motion for Order of Assignment Re. Chapter 13 Trustees

ORDER

On July 2, 2013, the Defendant and Judgment Creditor Jesus Montano moved the Court, pursuant to FRCP 69(a), made relevant herein by Bankruptcy Rule 7069, and California Code of Civil Procedure §708.510, for an order enforcing judgment of the \$70, 867.31 rendered in his favor and entered by this Court on January 25, 2013. The motion sought an assignment of rights, accounts, accounts receivables, rights to payment of money, and general intangibles owed to and in favor of Heritage Pacific Financial, LLC in the possession of or which may come into the possession of the United States trustees administering Chapter 13 bankruptcies in the bankruptcy districts of Central California, Eastern California, Northern California, South California, Southern Florida, Middle Florida, Arizona, and Nevada.

Heritage Pacific Financial, LLC and its attorneys of record in this adversary proceeding were both properly served the notice of the hearing and the motion. The Chapter 13 Trustees were properly served by the Defendant with the notice of the hearing and the motion, and were given the opportunity to respond, object or otherwise appear at the hearing scheduled in this matter. Objections, oppositions and statements from affected parties were due no later than July 20, 2013.

Heritage Pacific Financial, LLC did not file an opposition. Three trustees either filed with the Court or provided to Defendant's counsel sworn affidavits stating that they did not administer any cases in which they receive funds owed to Plaintiff.

The Court heard Defendant's motion on August 14th, 2013 at 10.30 a.m. Defendant Montano was represented by his counsel, Ms. Meyer Santiago. Heritage Pacific, LLC did not make an appearance at the hearing. No Chapter 13 trustees appeared at the hearing.

Defendant Jesus Montano's Motion for Order of Assignment Re. Chapter 13 Trustees

1 Having considered Defendant's moving papers and the statements filed by the Chapter
2 13 trustees, heard oral arguments, and good cause having been shown, the Court finds as
3 follows:
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- 5 1. that Heritage Pacific Financial, LLC is indebted to Jesus Montano in the amount
6 of \$70,867.31, plus post-judgment interest accruing at \$27.18 cents daily since
7 January 26, 2013;
- 8 2. that Heritage Pacific Financial, LLC has not satisfied the judgment, and has not
9 responded to post-judgment interrogatories served on it by Defendant, nor made any
10 payments toward satisfying the judgment;
- 11 3. that Heritage Pacific Financial has not posted a supersedeas bond stay collection of
12 the judgment;
- 13 4. that the trustees Rick A. Yarnall (D. Nevada), Kathleen A. Leavitt (D. Nevada)
14 and Devin Derham-Burk (N.D California) have demonstrated to the Court's
15 satisfaction that they have no cases in they receive monies intended for Heritage
16 Pacific Financial. In the interests of judicial efficiency, they shall be excluded from
17 the reach of this order; and
- 18 5. that the remaining trustees and the Plaintiff Heritage Pacific Financial, LLC had
19 opportunity to object, oppose and otherwise respond to Defendant's motion, and
20 chose not to.

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24 Therefore, pursuant to Bankruptcy Rule 7069 and California Code of Civil Procedure
25 §708.510(a), IT IS HEREBY ORDERED that
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Defendant Jesus Montano's Motion for Order of Assignment Re. Chapter 13 Trustees

1 All rights, accounts, accounts receivables, rights to payments of money and general
2 intangibles owed to and in favor of Heritage Pacific Financial, LLC which are in the possession
3 of or which may come into the possession of the following identified Chapter 13 trustees, are
4 assigned to Jesus Montano until satisfaction of the judgment.
5

6 The following Chapter 13 trustees are bound by this Order:

7 CENTRAL DISTRICT OF CALIFORNIA

8 Amrane Cohen, 770 The City Drive South, Suite 8500, Orange, CA 92868
9 Nancy K. Curry, 700 S. Flower Street, Suite 1215, Los Angeles, CA 90017
10 Rodney A Danielson, 3787 University Avenue, Riverside, CA 92501
11 Kathy Anderson Dockery, 700 S. Flower Street, Suite 1950, Los Angeles, CA 90017
12 Elizabeth F. Rojas, 15060 Ventura Blvd, Suite 240, Sherman Oaks, CA 91403

13 EASTERN DISTRICT OF CALIFORNIA

14 David P. Cusick, P.O. Box 1858, Sacramento, CA 95812
15 Russell D. Greer, P.O. Box 3051, Modesto, CA 95353-3051
16 Jan P. Johnson, P.O. Box 1708, Sacramento, CA 95812
17 Michael Meyer, 7550 N. Palm Avenue, Suite 204, Fresno, CA 93711

18 NORTHERN DISTRICT OF CALIFORNIA

19 Martha G. Bronitsky, P.O. Box 9077, Pleasanton, CA 94566
20 David E. Burchard, P.O. Box 8059, Foster City, CA 94404

21 SOUTHERN DISTRICT OF CALIFORNIA

22 Thomas H. Billingslea, Jr., 530 "B" Street, Suite 1500, San Diego, CA 92101-4499
23 David L. Skelton, 525 B Street, Suite 1430, San Diego, CA 92101

24 THE DISTRICT OF ARIZONA

25 Russell A. Brown, 3838 N. Central Avenue #800, Phoenix, AZ 85012-1965
26 Dianne C. Kerns, 7320 N. La Cholla #154, Tucson, AZ 85471
27 Edward J. Maney, 101 North First Avenue, Suite 1775, Phoenix, AZ 85003

28 SOUTHERN DISTRICT OF FLORIDA

Nancy K. Neidich, P.O. Box 279806, Miramar, FL 33027-4452
Robin R. Wiener, P.O. Box 559007, Fort Lauderdale, FL 33355-9007

MIDDLE DISTRICT OF FLORIDA

Douglas W. Neway, 200 West Forsyth, Suite 1520, Jacksonville, FL 32202
Terry E Smith, 3046 E. College Ave, Ruskin, FL 33570
Jon M. Waage, P.O. Box 25001, Bradenton, FL 34206-5001

Defendant Jesus Montano's Motion for Order of Assignment Re. Chapter 13 Trustees

1 Laurie K. Weatherford, P.O. Box 3450, Winter Park, FL 32790

2 DISTRICT OF NEVADA

3 William A. Van Meter, 1225 Westfield Avenue, Suite 8, Reno, NV 89501

4 IT IS HEREBY ORDERED that all monies owed and in favor of Heritage Pacific
5 Financial, LLC Heritage be paid to and in behalf of Defendant, by a check, draft, money order
6 or wire transfer, payable to the order of LINCOLN LAW, attorneys for Jesus Edgar Montano,
7 and that such funds be forwarded to Carl R. Gustafson, LINCOLN LAW, LLP, 1525 Contra
8 Costa Blvd, Pleasant Hill, California, 94523 until the total of the judgment in the above-entitled
9 action be paid in full.
10

11 IT IS HEREBY ORDERED that Defendant's counsel shall submit to the Court a status
12 report detailing the monies received from the Chapter 13 trustees identified in this Order. The
13 status report shall contain the following information 1) the trustee from whom the funds were
14 received, 2) the date on which the funds were received, 3) the amount of the funds received, and
15 4) the amount remaining to be satisfied on the judgment. The report shall be filed bi-monthly,
16 beginning 30 days from the entry of this order, and every 60 days following until satisfaction of
17 the judgment. This report shall also be served on Heritage Pacific Financial, at 2200 K Avenue,
18 Plano, TX 75074. It may be combined with the status report ordered by this Court on
19 Defendant's motion for an order of assignment of rights, docket number 233.
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22 When the judgment is satisfied, Defendant shall file a satisfaction of judgment with the
23 Court, and served a copy on each trustee identified in this Order and on Heritage Pacific.
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25 Defendant shall timely inform trustees when the judgment is satisfied and return, within
26 three (3) days, any funds received in excess of the judgment amount.
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28 Defendant Jesus Montano's Motion for Order of Assignment Re. Chapter 13 Trustees

1 IT IS HEREBY ORDERED that Heritage Pacific Financial is enjoined from assigning
2 or otherwise disposing of the right to payment assigned by this order, except upon a showing of
3 need.
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5 This order does not function as a levy against deposit accounts and is without prejudice
6 to Defendant's ability to seek a levy in the future.

7 ***END OF ORDER***
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Defendant Jesus Montano's Motion for Order of Assignment Re. Chapter 13 Trustees

Court Service List

Heritage Pacific Financial, LLC, 2200 K Avenue, Plano, TX 75074
Amrane Cohen, 770 The City Drive South, Suite 8500, Orange, CA 92868
Nancy K. Curry, 700 S. Flower Street, Suite 1215, Los Angeles, CA 90017
Rodney A Danielson, 3787 University Avenue, Riverside, CA 92501
Kathy Anderson Dockery, 700 S. Flower Street, Suite 1950, Los Angeles, CA 90017
Elizabeth F. Rojas, 15060 Ventura Blvd, Suite 240, Sherman Oaks, CA 91403
David P. Cusick, P.O. Box 1858, Sacramento, CA 95812
Russell D. Greer, P.O. Box 3051, Modesto, CA 95353-3051
Jan P. Johnson, P.O. Box 1708, Sacramento, CA 95812
Michael Meyer, 7550 N. Palm Avenue, Suite 204, Fresno, CA 93711
Martha G. Bronitsky, P.O. Box 9077, Pleasanton, CA 94566
David E. Burchard, P.O. Box 8059, Foster City, CA 94404
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